

**U.S. BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**Honorable Stephen L. Johnson
Thursday, October 17, 2013**

Current as of 10/15/2013 at 1:36 PM

San Jose Courtroom 3099

U.S. Courthouse and Federal Bldg.

**280 S 1st Street
San Jose, CA 95113**

10:00 AM **10-57325** Jose Luis Picazo and
Ch 13 Terri Jones Picazo
Trustee: Derham-Burk

Moving: Sara J. Lipowitz

Opposing:

Matter: a) Motion to Modify Chapter 13 Plan Filed by Debtor (141)

b) Objection by Trustee

Comment Tentative Ruling: Court is inclined to permit modification with change to plan suggested by trustee. Debtors provided declaration in support of motion, indicating factual basis for reduced payments which trustee may have overlooked. Matter to be called.

10:00 AM **11-50171** Scott Turner
Ch 13
Trustee: Derham-Burk

Moving: Fayedine Coulter

Opposing:

Matter: a) Motion for An Order Vacating Dismissal And Reinstating Case Filed by Debtor (81)

b) Objection by Trustee

Comment Tentative Ruling: Trustee's well reasoned objection sustained and motion denied. This case is better understood as a probate matter. Debtor proposed paying unsecured creditors 100%. The heirs should negotiate with lender directly, rather than thru bk

10:00 AM **11-57319** Janet E. Toro
Ch 13
Trustee: Derham-Burk

Moving: Donald P. Brigham

Opposing: Saman Taherian

Matter: a) Motion to Dismiss And For 180-Day Bar to Subsequent Bankruptcy Filing by YORKTOWN FUNDING, INC. (20) (Cont fr 5/17, 8/23, 10/15, 1/17, 2/21, 4/25, 7/18, 9/19)

b) Opposition by Debtor

Comment Tentative Ruling: This matter will be called.

10:00 AM **11-60881** Robert H McClure and
Ch 13 Patsy A McClure
Trustee: Derham-Burk

Moving: Jeannette Rose Marsala

Opposing: John G. Downing

Matter: Hearing re Objection to Confirmation of Second Amended of Plan Filed by U.S. Bank, N.A. (39)

Comment Tentative Ruling: Debtors' counsel's status conference statement does not comply with local guidelines. Secured creditor should appear to defend continuing objection to confirmation.

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10:00 AM **12-50495** Gilda Lee Jones
Ch 13
Trustee: Derham-Burk

Moving: Daniel I. Singer

Opposing: Brette L. Evans

Matter: a) Hearing re Objection to Confirmation of Plan by Deutsche Bank National Trust Co (14)

b) Hearing re Objection to Confirmation of Chapter 13 Plan Filed by Trustee (12)

*WITHDRAWN 10/10/13

c) Application for Compensation of Fees: \$10,257.00 & Reimbursement of Expenses: \$0.00 Filed by Brette Evans, counsel for debtor (38)

Comment Tentative Ruling: Trustee's objection has been withdraw. Deutsche Bank objection is premised on no loan mod being filed and feasibility. Depending on bank's position, Court may confirm plan, subject to loan mod application. Fees approved.

5

10:00 AM **12-52780** Matthew James Gallizioli
Ch 13
Trustee: Derham-Burk

Moving: Arnold L. Graff

Opposing: Scott J. Sagaria

Matter: Hearing re Objection to Confirmation of Plan by US Bank N.A. (20)

Comment Tentative Ruling: Request for confirmation denied. No loan mod is pending. Counsel is requested not to set matters on contested confirmation calendar in the absence of a genuine dispute.

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10:00 AM **12-53052** Dennis Stanislaus Spielbauer
Ch 13
Trustee: Derham-Burk

Moving: Brette L. Evans

Opposing:

Matter: Application for Compensation of Fees: \$9,270.00 and Reimbursement of Expenses: \$94.02 Filed by counsel for Debtor, Evans Law Offices (74)

Comment Tentative Ruling: Fees approved under Sec. 330(a)(4)(B).

7

10:00 AM **12-54462** Albert Hernandez and
Ch 13 Cecilia Hernandez
Trustee: Derham-Burk

Moving: Gregg S. Kleiner

Opposing: Elliot Gale

8

Matter: Hearing re Objection to Confirmation of Plan (Third Amended Chapter 13 Plan) by
Administrative Claimant McKenna Long & Aldridge LLP Filed by McKenna Long & Aldridge
LLP (115)

Comment Tentative Ruling: The court requires the trustee's input: if the plan pays \$675/mo, what portion
of that money will go to ch. 7 administrative creditors (Kokjer Pierotti, McKenna Long &
Aldridge, and Trustee Hjelmset)? Are payments current?

10:00 AM **12-57526** Jose Mari M. Vitan, III
Ch 13
Trustee: Derham-Burk

Moving: Cori B. Jones

Opposing: Richard T. Hilovsky

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Matter: Hearing re Objection to Confirmation of Plan Filed by U.S. Bank N.A. (16)

Comment Tentative Ruling: Feasibility question (income level) will be set for trial if parties have not
resolved. Guidelines require declaration re loan mod; court does not see it on docket so objection
sustained.

10:00 AM **12-58354** Ignacio Magdaleno
Ch 13
Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing:

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Matter: Motion to Dismiss Case Pursuant to 11 U.S.C. Secs. 109(h), 521(b) and 1307(c) by Trustee (24)

Comment Tentative Ruling: No objection to motion. Motion granted and case is dismissed for failure to
complete credit counseling. Trustee to upload order.

10:00 AM **12-59045** Joyce Baxter
Ch 13
Trustee: Derham-Burk

Moving: Reilly Wilkinson

Opposing: Burl S. Polon

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Matter: Hearing re: Objection to Confirmation of Plan Filed by Bay Federal Credit Union (14)

Comment Tentative Ruling: Court tentatively agrees with Debtor's position on modification of mobile
home lien when security is not realty. Does lender want the opportunity to brief issues raised in
notice of contested hearing? If not, court may overrule obj.

10:00 AM **13-50090** Dora Heredia Sandoval

Ch 13

Trustee: Derham-Burk

Moving: Nina Z. Javan

Opposing: Denise M. Zingale

Matter: Hearing re Late fld Amd Objection to Confirmation of Plan by JPMorgan Chase Bank, N.A. (29)

Comment Tentative Ruling: No response to objection filed. Objection is sustained.

12

10:00 AM **13-50481** Stephanie Wilcoxon

Ch 13

Trustee: Derham-Burk

Moving: Nanette Dumas

Opposing: Gary Paul

Matter: a) Motion to Dismiss Pre-Confirmation Pursuant to 11 U.S.C. §1307(c) Filed by Trustee (40)

b) Opposition by Debtor

*CONT TO 11/21/13 AT 10:00 AM PER STIPULATED ORDER 10/9/13

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10:00 AM **13-51774** Cecilia Cayabyab

Ch 13

Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: Cathleen Cooper Moran

Matter: a) Motion to Dismiss Case (Pre-Confirmation) Pursuant to 11 U.S.C. §§ 1307(c) and 109(e) by Trustee (54)

b) Opposition by Debtor

Comment Tentative Ruling: Matter will be called. Parties are requested to review In re Loya, 123 B.R. 338 (9th Cir. BAP 1991) prior to hearing.

14

10:00 AM **13-52460** Kathleen Marie Seaver

Ch 13

Trustee: Derham-Burk

Moving: Christopher Alliotts

Opposing:

Matter: Motion for Authority to Sell Residential Real Property Filed by Debtor (20)

*Statement of Non-Opp fld by Trustee 9/24/13

Comment Tentative Ruling: Motion is granted.

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10:00 AM **13-52468** Judson T, Farley

Ch 13

Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: Judson T. Farley

Matter: Motion to Dismiss and Motion to Bar Re-Filing for Two (2) Years Filed by Trustee (22)

Comment **Tentative Ruling:** Granted for reasons indicated in trustee's moving papers, which were not contested.

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10:00 AM **13-52741** Pete G. Sanchez

Ch 13

Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: Pete G. Sanchez

Matter: Motion to Dismiss Case (Pre-Confirmation) Pursuant to 11 U.S.C. §§ 1307(c) and 109(e) Filed by Trustee (39)

Comment **Tentative Ruling:** Motion granted for reasons indicated in trustee's motion, which was not contested.

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10:00 AM **13-52917** Javier Medina Martinez

Ch 13

Trustee: Derham-Burk

Moving: Anthony O. Egbase

Opposing: Brian T. Harvey

Matter: a) Motion to Convert Case to Chapter 11 Filed by Debtor (32)

b) Motion for Order Authorizing Joint Administration of Cases filed by Debtor (36)

c) Motion For Order Excusing Receiver From Compliance With 11 U.S.C. §§ 543(a) AND 543(b) or, in the Alternative, to Appoint A Chapter 11 Trustee by Bank of America, N.A.

*Order shortening time

Comment **Tentative Ruling:** This matter will be called

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10:00 AM **13-52921** Margo E. Chapman

Ch 13

Trustee: Derham-Burk

Moving: Dominique Sopko

Opposing: Susan D. Silveira

Matter: Hearing re: Objection to Confirmation of First Amended Plan Filed by Angel Berry (19)

Comment **Tentative Ruling:** Off calendar. Continued to 11/21/13 at 10am per order 10/10/13

19

10:00 AM	13-53113	Oranee L Batiste	
	Ch 13		
	Trustee: Derham-Burk		
Moving:	Nanette Dumas		
Opposing:	Shawn R. Parr		
Matter: Motion to Dismiss Case Filed by Trustee (18)			20
Comment	Tentative Ruling: Motion is granted and case is dismissed. Trustee to upload order.		
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10:00 AM	13-53136	Norman Smith Serrano and	
	Ch 13	Veronica Agredano Serrano	
	Trustee: Derham-Burk		
Moving:	David A. Boone		
Opposing:			
Matter: Motion to Void & Strip Lien of JPMorgan Chase Bank, N.A./Washington Mutual Bank, FA by Debtor (21)			21
Comment	Tentative Ruling: Motion is granted. See Docket Text Order.		
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10:00 AM	13-53498	Joseph R. Koppi and	
	Ch 13	Carol Koppi	
	Trustee: Derham-Burk		
Moving:	Stanley A. Zlotoff		
Opposing:			
Matter: Hearing re Objection to Confirmation of Chapter 13 Plan by Trustee (11) (fr 9/19) *OBJECTION WITHDRAWN 10/3/13			22
Comment	Tentative Ruling: Off calendar. Plan confirmed on 10/9/13.		
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10:00 AM	13-53704	Lourdes Cheryl Nazario Platon	
	Ch 13		
	Trustee: Derham-Burk		
Moving:	David A. Boone		
Opposing:			
Matter: Motion to Void & Strip Lien of Real Time Resolutions, Inc./GreenPoint Mortgage Funding, Inc. by Debtor (12)			23
Comment	Tentative Ruling: Motion granted. See Docket Text Order.		
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10:00 AM	13-53880	Francisco Sunga Velez and	
	Ch 13	Natividad Cajez Velez	
	Trustee: Derham-Burk		
Moving:	Brette L. Evans		
Opposing:			
Matter: Motion to Value Lien of JPMorgan Chase Bank, NA Filed by Debtor (14)			24
Comment	Tentative Ruling: Motion granted. See Docket Text Order.		
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10:00 AM **13-54420** Mario Valdespino

Ch 13

Trustee: Derham-Burk

Moving:

Opposing:

Matter: a) First Amended Motion for Turnover of Real Property 693 Santa Coleta Ct Sunnyvale CA by Debtor (25)

b) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. §§ 109(h), 521(b) and 1307(c) Filed by Trustee (16)

Comment Tentative Ruling: Trustee's motion to dismiss is granted. Debtor has not satisfied conditions for temp waiver of credit counseling under 109(h)(3). Trustee to upload order. Motion for turnover is denied as moot due to dismissal.

25

10:00 AM **13-55060** Clarence Wrencher, Jr

Ch 13

Trustee: Derham-Burk

Moving:

Opposing:

Matter: Order(1) Denying Debtor's Application To Pay Filing Fee In Installment And (2) Requiring Debtor to Appear In Person To Show Cause Why This Case Should Not Be Dismissed With Prejudice (7)

Comment Tentative Ruling: This matter will be called.

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10:00 AM **13-54716** Beatriz Martinez

Ch 11

Moving: Brian T. Harvey

Opposing: Anthony O. Egbase

Matter: Motion For Order Excusing Receiver From Compliance With 11 U.S.C. §§ 543(a) AND 543(b) or, in the Alternative, to Appoint A Chapter 11 Trustee by Bank of America, N.A. (26)

***Order shortening time**

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UNCONTESTED CALENDAR – CONFIRMATION ADVANCED PER RESOLUTION

JUDGE JOHNSON – October 17, 2013 at 10:00 a.m.

**With respect to the following cases, objections were filed and subsequently withdrawn;
therefore, the Court confirms the following cases:**

The following cases shall be **CONFIRMED**:

- | | |
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| 27. AN TOM & MONICA TRAN
12-5-3524 SLJ | ATTY – TRINH |
| 28. JENNY NGUYEN
12-5-5066 SLJ | Obj by The Bank of
NY Mellon - TPL
ATTY – PHAM |
| 29. KAREN ETIENNE
12-5-5435 SLJ | ATTY – BOONE |
| 30. TERRY & BARBARA WALTERS
12-5-7754 SLJ | ATTY – MOORE |
| 31. KARL GONSALVES
13-5-3206 SLJ | ATTY – OLDHAM |
| 32. ROBIN FLADEBOE &
LINDA PROSSER
13-5-3677 SLJ | ATTY – GOLD & HAMMES |
| 33. CLIFFORD & BETTY LACY
13-5-4131 SLJ | ATTY – MOORE |

The Court has determined that it is in the best interests of creditors and the estates to hold the Confirmation Hearings earlier than 21 days after the meetings of creditors. No objections to the earlier hearing have been filed; therefore, the following plans are either confirmed or placed on the Trustee's Pending List:

**INITIAL CONFIRMATION CALENDAR FOR CASES
WITH NO OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – October 17, 2013 at 10:00 a.m.

The following cases shall be **CONFIRMED**:

34. JASON & ALLISON BASS
13-5-4260 SLJ

ATTY – SHULMAN

35. ROBERT TOSTO
13-5-4350 SLJ

ATTY – MOORE

Objection to Confirmation filed by The Bank of New York Mellon. Case to be placed on TPL

36. ANDRES & GLORIA AGUIRRE
13-5-4351 SLJ

ATTY – MOORE

37. ELENA CHU
13-5-4354 SLJ

ATTY – BROOKS

38. EDWIN & REMEDIOS PARAS
13-5-4364 SLJ

ATTY – BOONE

39. ARMANDO SILVA
13-5-4390 SLJ

ATTY – BOONE

40. RONALD STREETER
13-5-4398 SLJ

ATTY – HENSHAW

41. MANINDER SINGH &
PARMINDER KAUR
13-5-4424 SLJ

ATTY – MOORE

**INITIAL CONFIRMATION CALENDAR FOR POST BANKRUPTCY REFORM ACT CASES
WITH OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – October 17, 2013 at 10:00 a.m.

From: 341 MEETING OF CREDITORS, September 27 & 30, 2013

TO BE PLACED ON TRUSTEE'S PENDING LIST:

42. EUREK HINDS 13-5-4293 SLJ	ATTY – DOUGHERTY OBJECTION BY – TRUSTEE
43. FRANCISCO & MARIA DIAZ 13-5-4311 SLJ	ATTY – CENTRAL COAST BANKRUPTCY OBJECTION BY – TRUSTEE & ALLY FINANCIAL
44. MARIO MATEOSMARTINEZ 13-5-4319 SLJ	ATTY – GOLD & HAMMES OBJECTION BY – TRUSTEE & JUAN GARIBAY
45. STEVEN & SHIRLEY ALFORD 13-5-4358 SLJ	ATTY – ALLIOTTS OBJECTION BY – TRUSTEE
46. LEONEL ELIZARRARAZ 13-5-4391 SLJ	ATTY – NICHANI OBJECTION BY – TRUSTEE & WELLS FARGO
47. MANUEL BRICENO & LUZMILA SEQUEIROS 13-5-4396 SLJ	ATTY – SCHEIN & CAI OBJECTION BY – TRUSTEE & TOYOTA MOTOR CREDIT
48. MARIO VALDESPINO 13-5-4420 SLJ	PRO SE OBJECTION BY - TRUSTEE
49. JERRY MERZA & ANNALYN BASA-MERZA 13-5-4422 SLJ	ATTY – MOORE OBJECTION BY - TRUSTEE